

**BOARD OF ADJUSTMENT
CITY AND COUNTY OF DENVER
201 West Colfax Avenue, Department 201
Denver CO, 80202**

PREMISES AFFECTED: 1679 South Grant Street
LEGAL DESCRIPTION: Lot 29 and South 1/2 of Lot 30, Block 3, The First Santa Fe Addition

APPLICANT(S): My Tran-Boyle (Ashley), 1679 South Grant Street, Denver, CO 80210
Filed by: Jessica Christy, 2055 South Oneida Street, Suite 394, Denver, CO 80224

APPEARANCES:

APPLICANT: Ashley Tran-Boyle, 1679 South Grant Street, Denver, CO 80210
Jessica Christy, 2055 South Oneida Street, Suite 394, Denver, CO 80224
Thirteen (13) Letters of Support

OPPOSITION: Paul Schkade, 1685 South Grant Street, Denver, CO 80210
Six (6) Letters of Opposition

FOR THE CITY: Nicholas Hufford, Zoning Representative

SUBJECT:

Request for a Variance for a Minor Detached Accessory Structure (Hot tub) encroaching 1 foot 9 inches into the 5-foot south side interior setback, and a Minor Detached Accessory Structure (Pergola) encroaching 4 feet into the 5-foot south side interior setback, in a U-SU-B zone district

ACTION OF THE BOARD:

THE VARIANCE IS GRANTED IN PART under the Unusual Physical Conditions or Circumstances variance criteria, to allow the Minor Detached Structure (Hot Tub) to encroach 1 foot 9 inches into the 5-foot south side interior setback, according to the plans (Exhibit 6) and the testimony at the hearing.

The request for variance is DENIED as to the Minor Detached Structure (Pergola) encroaching 4 feet into the 5-foot south side interior setback, for failure of the request to meet all the conditions required for a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code. The Applicant has 14 days in which to request a Reconsideration if they believe there is new evidence of Justifying Circumstances which was not or could not have been presented at the hearing, or 28 days to appeal this decision to Denver District Court. Questions about this decision may be addressed to Austin Keithler, 720-913-3050, at the Board's office.

A 120-DAY DELAY OF ENFORCEMENT IS GRANTED FROM THE DATE OF THE HEARING UNTIL WEDNESDAY, JULY 8, 2026, under Section 12.4.16 of the Denver Zoning Code to allow the Applicant to come into compliance with this decision. If this time period is not adequate even with reasonable efforts, a second Delay of Enforcement may be requested by filing a second application with the Board of Adjustment before the July 8, 2026, deadline. Questions regarding a second application may be addressed to Austin Keithler, 720-913-3050, at the Board's office.

NOTE: A digital copy of the Board-approved plans may be obtained by contacting the Board's staff. These approved plans MUST be submitted to the Development Services Log-In counter when applying for final construction permits for this project.

BOARD OF ADJUSTMENT
Ignacio Correa-Ortiz, Chair

Austin Keithler

Austin E Keithler, Director

THIS ACTION BY THE BOARD OF ADJUSTMENT IS NOT AN APPROVAL TO PROCEED WITH DEVELOPMENT. PLEASE CONTACT YOUR ASSIGNED REVIEWER WITH CPD TO COMPLETE AND FINALIZE YOUR ZONING PERMIT OR ZONE LOT AMENDMENT APPLICATION. CONSTRUCTION OR ANY OTHER DEVELOPMENT ACTIVITY IS PROHIBITED ON THE SUBJECT REAL PROPERTY UNTIL YOU COMPLETE ALL ZONING AND PERMIT APPROVAL PROCESSES.

NOTE!! VARIANCES AUTHORIZING CONSTRUCTION WILL EXPIRE UNLESS START OF CONSTRUCTION HAS OCCURRED WITHIN 3 YEARS AND IS COMPLETED WITHIN 5 YEARS FROM THE DATE THE VARIANCE WAS GRANTED. (FOR EXTENSIONS, SEE DENVER ZONING CODE, SECTION 12.4.7.7.A.2.)

IN THE BOARD OF ADJUSTMENT
THE CITY AND COUNTY OF DENVER
FINDINGS OF FACT AND CONCLUSIONS OF LAW

MARCH 24, 2026

CASE NO. 8-2026

PREMISES: 1679 SOUTH GRANT STREET. (Lot 29 and the South ½ of Lot 30, Block 3, The First Santa Fe Addition.)

APPELLANT(S): MY TRAN-BOYLE (ASHLEY), 1679 South Grant Street, Denver, CO 80210, by Jessica Christy, 2055 South Oneida Street, Suite 394, Denver, CO 80224.

SUBJECT: Request for a Variance for a Minor Detached Accessory Structure (Hot tub) encroaching 1 foot 9 inches into the 5-foot south side interior setback, and a Minor Detached Accessory Structure (Pergola) encroaching 4 feet into the 5-foot south side interior setback, in a U-SU-B zone district

NOTICE OF HEARING: Premises posted. Public notice given in accordance with Section 2-35(2) and 12-96 of the Revised Municipal Code.

APPEARANCES:

Appellant: Ashley Tran-Boyle, 1679 South Grant Street, Denver, CO 80210
Jessica Christy, 2055 South Oneida Street, Suite 394, Denver, CO 80224
Thirteen (13) Letters of Support

Opposition: Paul Schkade, 1685 South Grant Street, Denver, CO 80210
Six (6) Letters of Opposition

For The City: Nicholas Hufford, Zoning Representative

FINDINGS OF FACT:

I. The application was timely filed February 2, 2026, from a Zoning Relief Pre-Application Meeting Summary dated January 21, 2026. The case was heard on March 10, 2026, at which time one variance was approved, one variance was denied, and a Delay of Enforcement was approved to bring the property into compliance. Final Findings of Fact and Conclusions of Law were adopted by the Board on March 24, 2026.

II. The Applicants request a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code (DZC), and believe the required conditions are met, specifically alleging:

A. The subject property is an 1898, single-story, single-family residence, located in the Platt Park neighborhood. The property is located toward the southern end of the 1600 block of South Grant Street. The property is 37 feet 6 inches wide by 125 feet deep, with 4,690 square feet in area. In addition to the primary structure, there is a detached two-car garage located at the rear of the property. The garage is pushed to the north side interior and rear property lines. The garage has access from the alley but is side loaded to the south before turning to connect to the alley. The front portion of the house is wider than the rear, narrowing slightly as it extends back into the property. The rear portion of the house is located closer to the northern part of the property with a wider side yard to the south. The Applicant has been a co-owner of the property since 2020 and has been the sole owner of the property since March of 2022. The Applicant did not reside at the property while a co-owner, but she has occupied the property since becoming the sole owner. A complaint was made to the city regarding a pergola and hot tub which are located along the

southern side of the rear portion of the house. When the inspector came out to the property, they determined that both structures had been installed without permits and likely encroached into the south side interior setback. The inspector instructed the Applicant to prepare plans showing these improvements and submit them to the city for review. It was determined that the hot tub encroached 1 foot 9 inches into the 5-foot south side interior setback and the pergola encroached up to 4 feet into the 5-foot south side interior setback. Neither structure was installed by the Applicant. The pergola has been in place for at least 16 years, and the hot tub was already in place when the Applicant became the sole owner of the property. She is not asking for any additions to the property at this time, only to retain the improvements which are already present on the zone lot. She believes that these structures should be allowed to remain in place as they are justified by the variance criteria in the Code. CPD performed an initial eligibility test to see if they could resolve the zoning issues through an Administrative Adjustment (AA) rather than a variance. The hot tub could be eligible for an AA based on Neighborhood Compatibility, but it has not reached approval after three rounds of review. The pergola is not eligible for an AA and is only under consideration as a variance. The Applicant believes the hot tub should be eligible for a variance based on the Unusual Physical Conditions or Circumstances criterion and that the pergola should be eligible for a variance based on either the Unusual Physical Conditions or Circumstances criterion or the Neighborhood Compatibility criterion. She asks the Board to consider variances to allow the structures to remain as built. (Testimony of Ashley Tran-Boyle. Statement of Jessica Christy. See also Exhibit 1 – Zoning Relief Pre-Application Meeting Summary, Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 7 – Applicants’ Packet.)

- B. The Applicant and CPD staff have both defined the existing neighborhood context as the east and west sides of the 1600 block of South Grant Street, as well as those across the shared alley on the west side of South Sherman Street. Each of these block faces has 17 homes, combining to a total of 51 homes in the existing neighborhood. The Applicant notes that there are several unusual conditions present on the lot which justify the two variance requests. First, the Applicant’s zone lot is in the bottom 20% of comparable zone lots in terms of lot width. Of the 51 homes in the established neighborhood, 20 homes or 39% are single family homes with wider lots than the subject property. An additional 20 homes or another 39% are part of a duplex or triplex. These lots are all larger than the Applicant’s lot, and the duplex and triplex lots have at least one shared property line where there is no side interior setback. This leaves around 80% of properties in the existing neighborhood with more space for outdoor improvements compared to the Applicant’s zone lot. The Applicant therefore believes the side setback encroachments for both structures is justified in part by the unusual narrowness of the zone lot. (Testimony of Ashley Tran-Boyle. Statement of Jessica Christy. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, Exhibit 7 – Applicants’ Packet, and Exhibit 11 – Applicant’s Rebuttal.)
- C. In addition to the unusual narrowness of the zone lot, the Applicant believes the request satisfies some of the other criteria for Unusual Physical Conditions or Circumstances. The Applicant notes that there are circumstances or conditions related to drainage which would arise if the structures were moved to an alternative location. The rear of the home has a downspout which drains the northern side of the structure and a downspout which drains the southern side of the structure. The southern downspout drains into the back yard directly to the west of the existing location of the pergola and hot tub. This creates a barrier to digging pergola footings or a new pad for a hot tub, as the water would interfere with the stability of both structures. Additionally, there is existing mature landscaping in the back yard which would be damaged by an alternative location for both structures. The Applicant has an apple tree in her back yard, located along the fence line by the garage. The tree is at least 12 feet in height and meets the definition of an established tree. If the structures were moved to the west toward this tree, the tree would likely be damaged and possibly destroyed by the new footers and pad for the structures. If the pergola and hot tub were moved directly behind the house to the north, they would likely damage the root structure of an established tree in the neighbors’ yard at 1671 South Grant Street. (Testimony of Ashley Tran-Boyle.

Statement of Jessica Christy. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, Exhibit 7 – Applicants’ Packet, and Exhibit 11 – Applicant’s Rebuttal.)

- D. Beyond these existing conditions, the Applicant notes that there are additional improvements on the property which limit any alternative location for the hot tub and pergola to be moved. The Applicant’s back yard space is very limited. She has divided the potential alternative locations into three zones. Zone one is located directly to the south of the garage along the alley, zone two is to the east between zone one and the current pergola and hot tub locations, and zone three is between the garage and the rear façade of the house. The Applicant does not believe that any of these is a suitable alternative location for the pergola and hot tub. Location number one is the driveway for the side-loaded garage. Placing the structures here would eliminate the functional use of the driveway and garage which are existing compliant structures that pre-date the Applicant’s ownership of the property. Zone two in the back yard would require the removal of the established apple tree and the removal of mature bamboo exceeding 6 feet in height. There would also be an impact from the established drainage condition, which would damage any new footers or concrete pad in this area. Zone three is constrained by multiple improvements to the property. There are basement egress windows in this area which would be blocked. There is an electrical service panel and overhead utility lines which connect to the southwest corner of the house. Along the northern portion of the lot, there is an underground sewer main. There would also likely be damage to the root structure of the existing mature tree on the neighboring property to the north. The Applicant believes that for these reasons, the hot tub and pergola are both placed in the best and most appropriate location, even if they do not comply with Code. (Testimony of Ashley Tran-Boyle. Statement of Jessica Christy. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, Exhibit 7 – Applicants’ Packet, and Exhibit 11 – Applicant’s Rebuttal.)
- E. The Applicant notes that while it would theoretically be possible to shift the hot tub toward the house, this would block means of egress in case of a fire. There is a rear exit from the house out to the patio where the hot tub and pergola are located. The exit is raised above the patio by 5 steps. There is 2 feet 5 inches of clearance between the bottom step and the hot tub which is just enough space to pass through to walk along the side of the house toward the front yard. From the back door down the steps there is 3 feet 9 inches of clearance between the hot tub and the side of the house. The back door and steps align with a pathway that extends out to a gate to the driveway and alley beyond. Shifting the hot tub toward the house would block the means of egress from the back door. The Applicants do not believe the hot tub in this location would comply with the Fire Code, so they do not believe that it is a reasonable alternative location. (Testimony of Ashley Tran-Boyle. Statement of Jessica Christy. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 7 – Applicants’ Packet.)
- F. The Applicants believe that the existing improvements are compatible with the surrounding neighborhood. The Applicants note that rear yard outdoor living spaces are common throughout the surrounding neighborhood. Similar improvements include pergolas, patios, seating areas, and sheds. These improvements tend to be modest in scale, clearly subordinate to the primary structure, and are typically located in the rear or side yards. The specific placement of these structures will vary depending on the lot width and depth, as well as site specific conditions. The Applicants have found numerous examples of similar improvements in the surrounding neighborhood which appear to be similarly sited and likely not compliant with the Code. The Applicants have found a patio in the front 65% of the lot adjacent to a side fence at 201 Mexico Street. 1686 – 1688 South Grant Street has accessory structures located against the side fence. 1650 South Grant Street has a structure in the backyard partially within the front 65% of the lot and 3 feet from the fence. 1626 South Grant Street has a structure in the rear yard with similar siting and scale which is within the front 65% of the zone lot and is encroaching into the setback. 1612 South Sherman Street has a pergola sitting in the side interior setback. These are just some of the many examples that the Applicants have identified within the surrounding neighborhood. They believe that allowing the hot tub and pergola to remain as built would therefore be compatible with

the surrounding neighborhood. (Testimony of Ashley Tran-Boyle. Statement of Jessica Christy. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 7 – Applicants’ Packet.)

III. The Applicants request a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code (DZC). The Board finds that the Applicants meet the following conditions for a variance as to the hot tub encroaching into the south side interior setback, under Section 12.4.7.5.A, “Unusual Physical Conditions or Circumstances:”

A. Unusual Physical Conditions or Circumstances:

1. There are unusual physical circumstances or conditions peculiar to the affected property. See above at Findings II.A, II.B, II.C, II.D, and II.E, above.
2. The circumstances or conditions do not exist throughout the neighborhood or zone district in which the property is located except for those adjustments based on drainage conditions, as described in 12.4.7.5.A.1.c, above, those based on Conforming, Compliant, or Nonconforming Structures, as described in 12.4.7.5.A.1.e, above, or those based on the reuse of an existing structure when the variance request is to adjust the minimum bicycle parking standards. The Applicant believes that the narrowness of the zone lot, the mature trees, the drainage conditions, and the location of the other improvements on the lot are unique to the property and do not exist throughout the neighborhood. (Statement of Jessica Christy. See also Exhibit 7 – Applicant’s Packet.)
3. The unusual physical circumstances or conditions have not been created by the applicants. The hot tub was installed by the prior co-owner of the property, not by the Applicant. She was not involved in maintaining the property while a co-owner. (Statement of Jessica Christy. See also Exhibit 7 – Applicant’s Packet.)
4. The unusual physical condition or circumstance causes the need for the variance. The location of the existing improvements on the zone lot creates the need for the hot tub to be placed in the current location. (Statement of Jessica Christy. See also Exhibit 7 – Applicants’ Packet.)

B. If granted, the variance would meet the following requirements for all variance approvals under 12.4.7.6. DZC:

1. It would not relate to either the persons, or the number of persons, who do, will, or may reside in a residential structure. Any occupant of the property would experience similar challenges given the location of the existing improvements on the zone lot.
2. Except as allowed in Section 12.4.7.5, it would not be justified solely on grounds of loss of a financial advantage, hardship that is solely financial, or a more profitable use of the property might be had if a variance is granted. The variance is based on the unusual physical conditions or circumstances of the property, not on a financial hardship.
3. It would not substantially impair the intent and purpose of this Code. The variance is minor and technical under the circumstances. While the hot tub encroaches slightly into the side setback, it is below the fence line and not easily visible from any adjacent properties. See above at Findings II.A, II.B, II.C, II.D, and II.E, above.
4. It would not substantially impair the intent and purpose of the applicable zone district. The variance is minor and technical under the circumstances. See above at Findings II.A, II.B, II.C, II.D, and II.E, above.
5. It would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property. The Applicant notes that both the hot tub and pergola were present on the property when she became the sole owner. The pergola has been in place for more than a decade and the hot tub has been in place for several years. The Applicant does not believe that the structures create any adverse impact on any adjacent properties. The Applicant has 13 signatures of support for the variance. (Statement of Jessica Christy. See also Exhibit 12 – Letters of Support.) The Board notes that they had also received six letters in opposition to the request and that the neighbor to the south

attended the hearing in opposition to the request. The opposition raised concerns over long standing noncompliance and that the pergola was creating adverse impacts through noise and drainage issues. The opposition also raised concerns that the granting of the variances would set a precedent which would open the door for other variance requests in the neighborhood. Although the Applicant had not installed the pergola, she modified it with a polycarbonate cover which created a solid roof. This cover has come loose and creates a lot of noise when the wind blows or when it rains. It also drains water and melting snow directly onto the fence along the southern property line. This has caused noticeable degradation of the fence adjacent to the pergola. For these reasons, the opposition believed that the variances should be denied. (Testimony of Paul Schkade. See also Exhibit 9 – Letters of Opposition.) The Board noted that the majority of the comments from the opposition addressed issues arising from the pergola more than the hot tub. Neighbors were not happy that the hot tub did not comply with Code but they did not raise concerns over any specific impacts arising from the hot tub. The Board noted that while neighbors were concerned over the variance setting a precedent, variances by their nature were individually reviewed. The granting of one variance did not have any bearing on a future variance request for a different property. While the Board agreed that the pergola appeared to create some external impacts on the adjacent properties, they did not find this to be true for the hot tub. The Board thus found the variance for the hot tub to be appropriate and found this condition to be met.

6. It would be the minimum change that would afford relief and would be the least modification of the applicable provisions of this Code. See above at Findings II.A, II.B, II.C, II.D, and II.E, above.
7. It would adequately address any concerns raised by the Zoning Administrator or other City agencies in their review of the application. CPD staff stated that they opposed the variances for both the hot tub and the pergola, as they did not find that the satisfied criteria in the Code. CPD acknowledged that there were some unusual conditions present on the property, but they did not find that they caused the need for the variance. The Board concurred as it pertained to the pergola, finding that the structure could be modified to be in compliance with the Code. However, the Board found that the location of the hot tub was appropriate and justified by the existing conditions present on the zone lot. The Board thus found this condition to be met.

IV. The Board does not find that the Applicants meet the criteria of Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code as to the pergola encroaching into the south side interior setback. Section 12.4.7.5 states: “The Board of Adjustment may grant a variance only if it finds that there are justifying circumstances whereby the application satisfies the criteria of **any one of Sections 12.4.7.5.A through F in addition to satisfying the general review criteria in Section 12.4.7.6.**” (Emphasis in original). The Board is not authorized to grant relief under the variance section unless all the criteria are met.

V. The Board finds that the Applicant does not meet the following conditions for a variance as to the pergola encroaching into the south side interior setback:

- A. The variance would not result in a building form which is more compatible with the surrounding neighborhood in terms of building height, siting, or design elements. See Section 12.4.7.5.B.1. DZC. CPD staff did not find the criteria for Neighborhood Compatibility to be met. CPD noted that the Applicants had cited several examples which were related to duplex or triplex properties rather than single family residences. The way that zoning relates to multi-unit properties was different than how it interacted with single family properties. It was likely that while some of the Applicant’s examples looked similar at a glance, that the rules around those properties would not be the same. It is common to have a two or three unit property where the units are side-by-side. In these instances, there will be separate parcels, where each unit is on its’ own parcel. However, all units and parcels are placed on a single zone lot. Zoning defines rules in terms of zone lots, not in terms of parcels. Side setbacks only apply to the sides of the zone lot; when there are adjacent

parcels on a single zone lot, there are no required side interior setbacks for these interior parcel lines. A side-by-side duplex would not require any setback for a pergola located along a fence line dividing the two units, as this would be a parcel line but not a zone lot line. While the Applicants examples may seem similar at first, they are not directly comparable. Additionally, CPD staff noted that while there may be some examples the Applicant provided which may have structures in the side setbacks, that this does not appear to be the predominant development pattern. The typical development pattern seems to show compliance with the Code rather than deviation. For this reason, CPD staff do not find that this condition has been met. (Testimony of Nicholas Hufford. See also Exhibit 7 – Applicant’s Packet, and Exhibit 10 – CPD Presentation.) The Board concurred and did not find this condition to be met.

- B. The variance would adversely impair the reasonable use and enjoyment of neighboring properties. See Section 12.4.7.6.E. DZC. CPD staff were concerned that the pergola as built would impair the use and enjoyment of the adjacent property to the south. The neighbor to the south appeared at the hearing in opposition to the request. This neighbor noted that the pergola had a polycarbonate cover added above the wood members of the roof structure. This polycarbonate material produced a lot of noise when it rained, and it had come loose so that it produced a lot of noise when it was windy. Additionally, this roof structure sloped toward the neighbors’ yard and drained directly onto the shared fence. This fence has shown clear deterioration from water damage caused by the roof structure of the pergola draining directly onto it. While the hot tub itself is below the fence line and not readily visible, the pergola is very visually impactful. The south side of the pergola has been boarded up so there is a large wooden wall located one foot from the shared fence line. This has been unpleasant and unsightly to look at. This neighbor is therefore opposed to the variance being granted. (Testimony of Paul Schkade. See also Exhibit 9 – Letters of Opposition.) The Board concurred and did not find this condition to be met.
- C. The variance would not be the minimum change that would afford relief or the least modification of the applicable provisions of the Code. See Section 12.4.7.6.F. DZC. The Board acknowledged that the placement of the hot tub appeared to be appropriate given the other conditions present on the zone lot. However, the Board did not find this to be true for the pergola. While the hot tub was below the fence line and not visible to neighboring properties, the pergola was well above the fence line and clearly visible. Additionally, while the dimensions of the hot tub were standardized, there was not a required size for the pergola. The pergola had been custom built for the property, but there was no specific need for it to be the current size. CPD staff believed that it would be possible to cut back or otherwise modify the pergola so that it still provided some cover while also meeting the required setback. (Testimony of Nicholas Hufford. See also Exhibit 10 – CPD Packet.) The Board concurred and did not find this condition to be met.

VI. CPD staff suggested that if the Board did not approve the variances, that they consider a Delay of Enforcement to bring the property into compliance. The issues had been ongoing for an extended period and CPD wanted to ensure the process resolved in a reasonably short timeframe. A Delay of Enforcement from the Board would establish a clear timeline for the Applicant to address the outstanding violations. The Board discussed how much additional time would be appropriate and decided on an additional 120 days to bring the property into compliance. The Board believed this would be sufficient to allow the Applicant to decide how to modify the structure and to find someone to perform the work.

CONCLUSION:

The Board concludes that the conditions set forth in Sections 12.4.7.5 and 12.4.7.6 of the Zoning Code do exist, and a variance is in order as to the hot tub encroaching into the south side interior setback. The Board concludes that the conditions set forth in Sections 12.4.7.5. and 12.4.7.6 of the Zoning Code do not exist, and a variance is not in order as to pergola encroaching into the south side interior setback. The Board concludes that the conditions

set forth in Section 12.4.16 of the Denver Zoning Code do exist, and a Delay of Enforcement is in order.

MOTION #1: The motion by Mr. Haywood to deny the variances for both the hot tub and the pergola was seconded by Mr. Bergeron. However, after some discussion, the motion was withdrawn so the two variances could be considered individually.

MOTION #2: The motion by Mr. Haywood to deny the variance for the pergola was seconded by Mr. Bergeron and was adopted.

VOTE: FOR: 5 AGAINST: 0

MOTION #3: The motion by Mr. Correa-Ortiz to grant the variance for the hot tub was seconded by Mr. Rice and was adopted.

VOTE: FOR: 3 (Correa-Ortiz, Rice, DeVuyst) AGAINST: 2 (Haywood, Bergeron)

MOTION #4: The motion by Mr. Correa-Ortiz to grant a delay of enforcement was seconded by Mr. Rice and was adopted.

VOTE: FOR: 5 AGAINST: 0

ACTION OF THE BOARD: THE VARIANCE IS GRANTED IN PART under the Unusual Physical Conditions or Circumstances variance criteria, to allow the Minor Detached Structure (Hot Tub) to encroach 1 foot 9 inches into the 5-foot south side interior setback, according to the plans (Exhibit 6) and the testimony at the hearing.

The request for variance is DENIED as to the Minor Detached Structure (Pergola) encroaching 4 feet into the 5-foot south side interior setback, for failure of the request to meet all the conditions required for a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code. The Applicant has 14 days in which to request a Reconsideration if they believe there is new evidence of Justifying Circumstances which was not or could not have been presented at the hearing, or 28 days to appeal this decision to Denver District Court. Questions about this decision may be addressed to Austin Keithler, 720-913-3050, at the Board's office.

A 120-DAY DELAY OF ENFORCEMENT IS GRANTED FROM THE DATE OF THE HEARING UNTIL WEDNESDAY, JULY 8, 2026, under Section 12.4.16 of the Denver Zoning Code to allow the Applicant to come into compliance with this decision. If this time period is not adequate even with reasonable efforts, a second Delay of Enforcement may be requested by filing a second application with the Board of Adjustment before the July 8, 2026, deadline. Questions regarding a second application may be addressed to Austin Keithler, 720-913-3050, at the Board's office.

NOTE: A digital copy of the Board-approved plans may be obtained by contacting the Board's staff. These approved plans MUST be submitted to the Development Services Log-In counter when applying for final construction permits for this project.